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DATE 3/14/2013 MISSOULA COUNTY RURAL INITIATIVES
SB 147 280 West Broadway Street
Missoula, Montana 59802-4292

OFFICE LOCATION: 317 Woody Street
PHONE: 406.258.3432
FAX: 406.258.3920
ri@co.missoula.mt.us

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To: Missoula Consolidated Planning Board

From: Mitchell Doherty, Missoula County Rural Initiatives

Re: Agriculture in Missoula County

Background

As a result of the loss of agricultural and ranch land, producers, infrastructure and the cultural heritage associated with these activities in Missoula County, the Missoula Board of County Commissioners wish to identify and carry out a range of actions to address Missoula County's responsibility to protect and encourage agriculture, as provided for under the Montana Constitution and Montana State Law. With the completion of the Open Lands Committee's discussion about agriculture and the Missoula Consolidated Planning Board's experience and past expressions of interest in agriculture policy, the Commissioners requested staff forward the discussion about agriculture policy to the Planning Board in order to gain their assistance and expertise in development of an agriculture policy for Missoula County.

At the October 16th Planning Board meeting, staff presented to the board a summary of comments received since the August 22nd meeting and packaged options to consider for an agriculture policy. The discussion at that meeting resulted in the following recommendation on the creation of an agricultural policy to the Missoula Board of County Commissioners for consideration:

- Develop revised subdivision regulations to address assessment of impacts to agriculture and options for mitigation
- Adopt a "Right to Farm" ordinance
- Adopt a "Local Source" ordinance for Missoula County operations and events to provide additional market for local agricultural products
- Create and continue assistance to economic development projects and programs related to agriculture
- Research potential for use of "Agricultural Protection Areas" tool in Missoula County
- Continue use of Open Space Bond funding to protect agricultural land
- Develop a Growth Policy vision statement that addresses the future of agriculture in Missoula County

The Board of County Commissioners sent a letter to Planning Board on November 21, 2012 in support of the Planning Board's recommendation adding emphasis that participation in Agricultural Protection Areas and Open Space Bond projects is done so on a voluntary basis. The Commissioners also expressed that revisions to subdivision regulations are a top priority for the County to ensure compliance with state law.

December 4th Planning Board Meeting

Due to the Commissioners interest in subdivision regulations as a high priority, staff is presenting concepts for revisions to the Missoula County subdivision regulations to Planning Board that includes the following elements:

- Definition of agriculture
- Identification of impacts to agriculture
- Determination of the significance of the impacts to agriculture
- Mitigation options

Staff is also presenting information relevant to the request to create a vision statement that addresses the future of agriculture in the Missoula County Growth Policy. At the December 4th meeting Planning Board is anticipated to discuss the conceptual ideas for revisions to the subdivision regulations and the Growth Policy vision statement.

The goals of the discussion are for Planning Board to take two actions:

1. Review staff's recommendation for the request to create a vision statement in the Growth Policy that addresses the future of agriculture and;
2. Determine which of the conceptual ideas for subdivision regulation revisions are preferred to move forward with in regulation revisions.

Growth Policy

Growth Policy and Vision Statement

Planning Board has requested a vision statement be drafted to address the future of agriculture in Missoula County. Agriculture is addressed throughout the 2005 update to the Missoula County Growth Policy. The current Growth Policy defines agriculture, describes both historical and current agricultural conditions and outlines several goals and objectives.

In the *Community Goals and Objectives* section of Chapter Three there is a *Development and Land Use Objective* that states:

Encourage the continuation of agricultural and forestry operations and protect them from adverse impacts of urban development. Distinguish between urban and rural land use patterns in land use decisions related to agriculture. Support local sustainable agriculture. (#4)

This statement addresses the goals and objectives the County and public seek for the future of agriculture in Missoula County and it appears to meet Planning Board's desire to include a vision statement about the future of agriculture in Missoula County. The creation of an agriculture policy will further the ability to meet these goals and objectives. Based on the above stated goal and objective already contained within the Growth Policy staff does not recommend any revisions at this time.

As requested, the Board will be hearing an agriculture presentation from Wally Congden in January. Staff has been working with Mr. Congden and as part of his presentation he will suggest that the Growth Policy include a statement such as the following:

Missoula County recognizes that agriculture, horticulture, aquaculture, silviculture, apiculture, and all manner of agricultural activities and operations in Missoula County are integral elements of, and necessary for, the continued vitality of Missoula County's history, economy, landscape, open space, wildlife, lifestyle and culture. Given the importance to the City, County and State of Montana of agricultural and the opportunities to participate in agricultural activities, agricultural lands and operations and the opportunity to participate therein are worthy of recognition, protection and facilitation. Consequently, Missoula County, through this Growth Policy, commits to education about, and the protection and promotion of, agricultural opportunities and operations.

Growth Policy and Subdivision Review

The 2005 Missoula County Growth Policy also lays the foundational framework of how to address the impacts of subdivision development on agriculture and agricultural water user facilities. Chapter Six lists several ways in which impacts of subdivision development on agriculture and agricultural water user facilities can be assessed including the following:

AGRICULTURE

- *Agricultural soils defined as having prime, statewide or local importance by the Natural Resources Conservation Service*
- *Agricultural productivity*
- *Agricultural land use*

AGRICULTURAL WATER USER FACILITIES

- *Access for maintenance, including physical access or easements*
- *Water movement such as bridges, culverts, or crossings*
- *Availability of water for agricultural water users*

This section of the Growth Policy provides the basis of how the impacts of subdivision development can be assessed and how mitigation options can be designed to minimize adverse significant impacts of development. The assessment of impacts cited in the "Concepts for Subdivision Regulation Revisions" section of this memo reflects the assessment of impacts in the Growth Policy.

No revisions to the Growth Policy are needed to revise the subdivision regulations at this time.

Concepts for Subdivision Regulation Revisions

Definition of Agriculture

The current definition of agriculture in the subdivision regulations nearly matches the definition in the 2005 Missoula County Growth Policy. The additional language in the subdivision definition further describes the classifications of agricultural soils by the National Resource Conservation Service (NRCS), but does not change the definition itself. The Subdivision Regulations and Growth Policy define agriculture as:

- **Subdivision Regulation Definition** – *Agriculture is defined as the use of the land for growing, raising, or marketing of plants or animals to produce food, feed, and fiber commodities. Examples of agricultural activities include, but are not limited to, cultivation and tillage of the soil; dairying; growing and harvesting of agricultural or horticultural commodities; and the raising of livestock, bees, fur-bearing animals, or poultry. Agriculture does not include gardening for personal use, keeping of house pets, kenneling, or landscaping for aesthetic purposes. Agricultural land includes land used for agriculture or having a soil type defined by the Natural Resources Conservation Service as having agricultural importance, including prime farmland, farmland of statewide importance, and farmland of local importance.*
- **Growth Policy Definition** – *Agriculture is defined as the use of the land for growing, raising, or marketing of plants or animals to produce food, feed, and fiber commodities. Examples of agricultural activities include, but are not limited to, cultivation and tillage of the soil; dairying; growing and harvesting of agricultural or horticultural commodities; and the raising of livestock, bees, furbearing animals, or poultry. Agriculture does not include gardening for personal use, keeping of house pets, kenneling, or landscaping for aesthetic purposes. Agricultural land includes land used for agriculture or having a soil type defined by the Natural Resources Conservation Service as having agricultural importance.*

Staff considers the current definition in the subdivision regulations to be sufficient and encompassing of the impacts listed below. No additional revisions to the agriculture definition are suggested at this time.

Potential Impacts of Subdivision Development on Agriculture

Agriculture can be affected by development in several ways including the following:

- Loss of agricultural soils
- A change to current and/or potential agricultural use
- Loss of or change in irrigation
- Impact of the change of use on neighboring agricultural property and/or water facilities
- Loss of contiguity of agricultural lands and/or operations

Staff's assessment is that this list provides the framework to look at impacts of subdivision development on agriculture.

Determination of the Significance of the Impacts to Agriculture

Consideration of what constitutes a significant impact to agriculture depends on the impact. The first issue that needs to be addressed is how to assess impacts of subdivision development on agriculture. Once it is determined how the impact is assessed, the next step is to determine how to measure the significance of the impact. Measurement of the significance of an impact or impacts leads to determination of a subdivision development's overall impact on agriculture.

Below is the list of potential impacts along with several attributes that can be measured or assessed to determine the significance of the impact. Examples of how a specific attribute can be measured are included. This list of impacts, attributes and measurements is not exhaustive, but includes necessary elements as suggested by staff.

- Loss of agricultural soils

Agricultural soils are a physical element of a parcel that can be measured and assessed. Subdivision development of a parcel can disturb the structure of soils and render them useless through placement of infrastructure and buildings. Loss of agricultural soils is irreversible and would prevent future use of a parcel for agriculture. Considerations for measurements of loss of agricultural soils could include:

- Soil types- Identify the agricultural soils located on the parcel.
- Distribution of agricultural soils- Determine where agricultural soils are located on a parcel.
- Quantity of agricultural soils- Determine how much of a parcel is encompassed with agricultural soils.
- Availability of water for irrigation for soil classifications that are dependent on irrigation (prime if irrigated)- Determine if water is available for irrigation and if so how much water is available for irrigation.

- A change to current and/or potential agricultural use

Subdivision development can change the use of a parcel from what was a historically agriculture use to residential, commercial or industrial uses. This development typically precludes any future use of the parcel for agricultural purposes. Assessment of the impact of the change in use or potential use of a parcel could be based on the following attributes:

- Productivity of the land- Productivity could be measured by potential yield of a given crop.
- Suitability for grazing- Measurements could be based on the number of stock that a parcel can support for grazing during a given time period.
- Determination that a non-agricultural use is preferred- This could include an assessment of current parcel zoning and possibly land use designation. If a parcel is zoned or designated for suburban residential (2 dwelling units/acre), commercial or industrial uses, there has been a policy determination that other uses besides agriculture may be more important for the property even if it has other agriculture resource attributes.

- Loss of/or change in irrigation

Loss of/or change in irrigation can affect a parcel's ability to effectively produce crops; therefore, impacting a parcel's ability to be a viable piece of agricultural ground. When considering the impact of the loss or change in irrigation of a parcel an assessment of the following attributes could include:

- Availability of water- Determine availability of water to the property through research of the water rights and if the parcel does have water rights, determine how much water is available.
- Access to irrigation- Determine if irrigation facilities and/or easements are present between the irrigation source and the property and if so what the capabilities of the facilities are and how that affects production.

- Impact of change of use on neighboring agricultural property and water facilities

Subdivision development can change the use of a parcel from what was historically an agricultural use to residential, commercial or industrial use(s). Those new uses can affect the surrounding properties and water facilities in different ways such as: loss of access to lease land for grazing and/or crop production, increase in traffic and the possibility of nuisance complaints from new non-agricultural land owners. When considering the impacts of the change of use on neighboring agricultural properties and water user facilities an assessment of those changes could include:

- Access to adjacent properties- Determine how the parcel and neighboring properties are accessed and whether the development will adversely affect agricultural access.
- Access to water facilities- An assessment of the water user facilities infrastructure of the area including all irrigation ditches and easements could be used to determine effects of new subdivision development on neighboring properties.

- Loss of contiguity of agricultural lands and/or operations

The contiguity of large tracts of working agricultural lands provides the fabric necessary to run viable operations. Interruptions in contiguity can hinder movement of produce, stock and water for irrigation and add additional time and costs to operations. The impact of the loss in contiguity depends on the pattern of land use, size of parcels, ownership and how they fit together.

The types of impacts subdivision development can have on agriculture need be assessed both individually and additively to determine the overall level of significance. Once the impacts and the significance of those impacts are assessed, appropriate measures can be identified to minimize or mitigate those particular impacts. Staff recommends including all of the above mentioned impacts and measurements/assessments of impacts in the determination of significance of a subdivision development.

Mitigation Options

Mitigation options should be applied in a manner that directly addresses the agricultural impact and that is proportional to the level of the impact. The mitigation options should be setup in a way that gives developers the opportunity to select from the options available to address mitigation. Assessment of the type and extent impacts of subdivision development will have on agricultural lands and operations will lead to identifying the most appropriate mitigation option.

For instance if it is determined that a proposed development will significantly affect the contiguity of a large area of agricultural lands and operations it may be most appropriate to mitigate that impact onsite rather than through offsite mitigation so as to protect the contiguity of agricultural lands in the area. It is also worth noting that a combination of mitigation tools may be appropriate in some cases. As a first tier approach, generally it is best to avoid impacts of development to agriculture through subdivision design. Designing for agriculture and other mitigation options are outlined below.

Design for Agriculture

Impacts to agriculture can be avoided and/or mitigated during the subdivision design phase. The layout or design of new development can incorporate protection of important agriculture attributes through clustering of home sites to protect important agricultural soils, water user facilities, etc. This is applicable on parcels where there is a mix of agricultural soils and non-agricultural soils and when onsite mitigation is necessary. Further guidance and incentives for design to prevent impacts to agriculture could be provided through design standards and/or an agriculture planned unit development (PUD) or agricultural conservation design section in the subdivision regulations.

On Site Protection (easements, deed restrictions and agricultural covenants)

Similar to incorporating agriculture into the design of a subdivision, on site protection of agricultural lands can be used to mitigate the impacts of subdivision development to agriculture. Important agricultural lands and attributes can be preserved through an easement, deed restriction, or agricultural covenants. A deed restriction or easement can offer permanent protection of a portion of the property while still allowing for development on another portion. Agricultural covenants can restrict uses or further development on all or a portion of a parcel.

Developer Acquisition

The developer acquisition option requires the developer find "equivalent" offsite agricultural land and place an easement or deed restriction on it that would restrict use of the land to only agricultural related activities. Standards would need to be developed that define the characteristics of acceptable replacement agricultural land and components of the development restrictions that would be required.

In Lieu of Fees

Another option to mitigate the impacts of subdivision development is through in lieu of fees. The fees can then be used by the County to protect agricultural land or support agricultural related projects and programs. Standards would need to be developed to address how fees would be calculated, when they are assessed and the acceptable uses for the mitigation funds.

Development Buffers

Buffering agricultural operations from development reduces conflicts between landowners and can help to minimize the impacts of subdivision development on agriculture. Buffers can also serve as transition areas for birds and other wildlife that rely on agricultural lands. Buffers can work in concert with other mitigation options to minimize the impacts of subdivision development.

Agricultural Management Plans

Agricultural management plans (AMP) could be required with onsite mitigation options. AMPs could help assure that the agricultural lands are managed in a way that not only protects and enhances them, but also ensures the opportunity for those lands to be used. AMP's describe current and historic conditions, soils, irrigation, weed control, planned activities including grazing and crop activity, and how the land will be available for use at market value if no agricultural activities are planned. They can also require a landowner to engage in agricultural activities on agricultural lands or make that land available for agricultural operations, thus helping to preserve agricultural opportunity. AMP's would be required to be updated periodically to ensure compliance with best management practices.

Staff recommends including all of the above mitigation options in subdivision regulation revisions to provide a variety of options to developers.

Staff Recommendations

1. Staff does not recommend changes to the Growth Policy to address the future of agriculture at this time.
2. Staff's assessment is that changes to the Growth Policy are not needed in order to revise the subdivision regulations to address impacts to agriculture. Staff does not recommend changes to the Growth Policy in order to proceed with revisions to subdivision regulations. However, additional modification of the Growth Policy may be warranted in the future.
3. Staff recommends that subdivision regulations revisions include the concepts noted above.